

AMENDED IN SENATE JUNE 18, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1744

**Introduced by Committee on Revenue and Taxation (Chavez
(Chair), Laird, Leno, and Simitian)**

March 11, 2003

An act to amend Section 15606 of the Government Code, and to amend Sections 75.21, 271, 441, and 442 of the Revenue and Taxation Code, relating to property tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 1744, as amended, Committee on Revenue and Taxation. Property taxes.

The State Board of Equalization, as a part of its administrative functions, is authorized to prescribe rules and regulations to be followed by assessors and local boards of equalization and to prepare and prescribe forms and instructions to be used by local assessors for classification and valuation of property.

This bill would require the State Board of Equalization, as part of its rulemaking process, to prepare and publish an estimate of the fiscal impact of any rule, regulation, form, or instruction proposed by the State Board of Equalization.

Existing law, with respect to supplemental property tax assessments, specifies various limitation periods for assessments on the supplemental tax roll. Existing law provides for the application of property tax exemptions to those supplemental assessments provided,

among other things, that an assessee file an exemption application or an amendment to a current exemption application on or before the 30th day following the date of a supplemental assessment notice in order to receive a full exemption with respect to that assessment. Existing law provides that an exemption claim is not required with respect to a supplemental assessment that results from a change in ownership of property of a purchaser that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and is being put to the same use after purchase, so long as a timely application for exemption is filed on or before the next tax lien date.

This bill would make technical amendments to clarify that, in the case of a supplemental assessment due to a change in ownership of property, an application for an exemption claim is not required to be filed until the filing date for the following lien date, if the purchaser of the property currently owns or uses property that has been granted an exemption and if the purchased property will be used for the same exempt purposes.

Existing property tax law allows taxes, penalties, and interest imposed for delinquent filings of property tax exemption applications to be reduced in the case of an exemption of a college, cemetery, church, religion, exhibition, or veterans' organization that acquires new property or is organized after the lien date, if an application for exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the property was acquired.

This bill would allow these taxes, penalties, and interest to be reduced pursuant to these provisions only if the entity files an exemption application within 90 days from the first day of the next month following the date on which the property was acquired.

Existing property law requires each person owning taxable personal property with an aggregate cost of \$100,000 or more to file a signed property statement with the county assessor. Existing law requires every person, upon request of the county assessor, to make available for examination information or records regarding personal property located on the premises owned or controlled by that person.

This bill would extend the requirement to make available for examination by the county assessor information or records regarding personal property that becomes part of new construction performed by an owner-builder or owner-developer, if that new construction is sold



to a ~~third~~ 3rd party, is constructed on behalf of a ~~third~~ 3rd party, or is constructed for the purpose of selling that property to a ~~third~~ 3rd party.

Existing property tax law requires the owners of specified property interests, including property that is the subject of a lease, to file a property statement with the county assessor listing all property interests held by that owner. Existing law does not require property leased under a conditional sales agreement, an agreement that allows the lessee the option to purchase the leased property for a nominal price at the end of the term of the lease, to be included in the lessor's property statement.

This bill would require the lessor of property that is leased under a conditional sales agreement to list that leased property on the lessor's property statement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15606 of the Government Code is
2 amended to read:

3 15606. The State Board of Equalization shall do all of the
4 following:

5 (a) Prescribe rules for its own government and for the
6 transaction of its business.

7 (b) Keep a record of all its proceedings.

8 (c) Prescribe rules and regulations to govern local boards of
9 equalization when equalizing, and assessors when assessing,
10 including uniform procedures for the consideration and adoption
11 of written findings of fact by local boards of equalization as
12 required by Section 1611.5 of the Revenue and Taxation Code.

13 (d) Prescribe and enforce the use of all forms for the assessment
14 of property for taxation, including forms to be used for the
15 application for reduction in assessment.

16 (e) Prepare and issue instructions to assessors designed to
17 promote uniformity throughout the state and its local taxing
18 jurisdictions in the assessment of property for the purposes of
19 taxation. It may adapt the instructions to varying local
20 circumstances and to differences in the character and conditions of
21 property subject to taxation as in its judgment is necessary to attain
22 this uniformity.

(f) Subdivisions (c), ~~(d)~~ (d), and (e) shall include, but are not limited to, rules, regulations, instructions, and forms relating to classifications of kinds of property and evaluation procedures.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c), governing the assessment or taxation of property. The Attorney General shall represent the board in the action.

(i) The board shall prepare and publish an estimate of the fiscal impact of any proposed rule, regulation, form, or instruction that the board is authorized to prescribe, enforce, or issue pursuant to subdivision (c), (d), (e), or (g).

(j) This section is mandatory.

SEC. 2. *Section 75.21 of the Revenue and Taxation Code is amended to read:*

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of a claim for the exemption, except as provided in subdivision (d), (e), or (f), any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in that form as prescribed by the board, on or before the 30th day

1 following the date of notice of the supplemental assessment, in
2 order to receive a 100-percent exemption.

3 (1) With respect to property as to which the college, cemetery,
4 church, religious, exhibition, veterans' organization, free public
5 libraries, free museums, or welfare exemption was available, but
6 for which a timely application for exemption was not filed, the
7 following amounts shall be canceled or refunded:

8 (A) Ninety percent of any tax or penalty or interest thereon, or
9 any amount of tax or penalty or interest thereon exceeding two
10 hundred fifty dollars (\$250) in total amount, whichever is greater,
11 for each supplemental assessment, provided that an appropriate
12 application for exemption is filed on or before the date on which
13 the first installment of taxes on the supplemental tax bill becomes
14 delinquent, as provided by Section 75.52.

15 (B) Eighty-five percent of any tax or penalty or interest
16 thereon, or any amount of tax or penalty or interest thereon
17 exceeding two hundred fifty dollars (\$250) in total amount,
18 whichever is greater, for each supplemental assessment, if an
19 appropriate application for exemption is thereafter filed.

20 (2) With respect to property as to which the welfare exemption
21 or veterans' organization exemption was available, all provisions
22 of Section 254.5, other than the specified dates for the filing of
23 affidavits and other acts, are applicable to this section.

24 (3) With respect to property as to which the veterans',
25 homeowners', or disabled veterans' exemption was available, but
26 for which a timely application for exemption was not filed, that
27 portion of tax attributable to 80 percent of the amount of
28 exemption available shall be canceled or refunded, provided that
29 an appropriate application for exemption is filed on or before the
30 date on which the first installment of taxes on the supplemental tax
31 bill becomes delinquent, as provided by Section 75.52.

32 (4) With respect to property as to which any other exemption
33 was available, but for which a timely application for exemption
34 was not filed, the following amounts shall be canceled or refunded:

35 (A) Ninety percent of any tax or penalty or interest thereon,
36 provided that an appropriate application for exemption is filed on
37 or before the date on which the first installment of taxes on the
38 supplemental tax bill becomes delinquent, as provided by Section
39 75.52.

1 (B) Eighty-five percent of any tax or penalty or interest
2 thereon, or any amount of tax or penalty or interest thereon
3 exceeding two hundred fifty dollars (\$250) in total amount,
4 whichever is greater, for each supplemental assessment, if an
5 appropriate application for exemption is thereafter filed.

6 Other provisions of this division pertaining to the late filing of
7 claims for exemption do not apply to assessments made pursuant
8 to this chapter.

9 (d) For purposes of this section, any claim for the homeowners'
10 exemption, veterans' exemption, or disabled veterans' exemption
11 previously filed by the owner of a dwelling, granted and in effect,
12 constitutes the claim or claims for that exemption required in this
13 section. In the event that a claim for the homeowners' exemption,
14 veterans' exemption, or disabled veterans' exemption is not in
15 effect, a claim for any of those exemptions for a single
16 supplemental assessment for a change in ownership or new
17 construction occurring on or after June 1, up to and including
18 December 31, shall apply to that assessment; a claim for any of
19 those exemptions for the two supplemental assessments for a
20 change in ownership or new construction occurring on or after
21 January 1, up to and including May 31, one for the current fiscal
22 year and one for the following fiscal year, shall apply to those
23 assessments. In either case, if granted, the claim shall remain in
24 effect until title to the property changes, the owner does not occupy
25 the home as his or her principal place of residence on the lien date,
26 or the property is otherwise ineligible pursuant to Section 205,
27 205.5, or 218.

28 (e) Notwithstanding subdivision (c), an additional exemption
29 claim may not be required to be filed until the next succeeding lien
30 date in the case in which a supplemental assessment results from
31 the completion of new construction on property that has
32 previously been granted exemption on either the current roll or the
33 roll being prepared.

34 (f) (1) Notwithstanding subdivision (c), an additional
35 exemption claim ~~may is not be required to be filed until the next~~
36 ~~succeeding lien date~~ in the instance where a supplemental
37 assessment results from a change in ownership of property where
38 the purchaser of the property owns and uses or uses, as the case
39 may be, other property that has been granted the college, cemetery,
40 church, religious, exhibition, veterans' organization, free public

1 libraries, free museums, or welfare exemption on either the current
2 roll or the roll being prepared and the property purchased is put to
3 the same use. ~~If a timely application for exemption is not filed on~~
4 ~~the next succeeding lien date, then the provisions of paragraph (1)~~
5 ~~of subdivision (c) shall apply.~~

6 (2) In all other instances where a supplemental assessment
7 results from a change in ownership of property, an application for
8 exemption shall be filed pursuant to the provisions of subdivision
9 (c).

10 *SEC. 3.* Section 271 of the Revenue and Taxation Code is
11 amended to read:

12 271. (a) Provided that an appropriate application for
13 exemption is filed within 90 days from the first day of the month
14 following the month in which the property was acquired or by
15 February 15 of the following calendar year, whichever occurs
16 earlier, any tax or penalty or interest imposed upon:

17 (1) Property owned by any organization qualified for the
18 college, cemetery, church, religious, exhibition, veterans'
19 organization, tribal housing, or welfare exemption that is acquired
20 by that organization during a given calendar year, after the lien
21 date but prior to the first day of the fiscal year commencing within
22 that calendar year, when the property is of a kind that would have
23 been qualified for the college, cemetery, church, religious,
24 exhibition, veterans' organization, tribal housing, or welfare
25 exemption if it had been owned by the organization on the lien
26 date, shall be canceled or refunded.

27 (2) Property owned by any organization that would have
28 qualified for the college, cemetery, church, religious, exhibition,
29 veterans' organization, tribal housing, or welfare exemption had
30 the organization been in existence on the lien date, that was
31 acquired by it during that calendar year after the lien date in that
32 year but prior to the commencement of that fiscal year, and of a
33 kind that presently qualifies for the exemption and that would have
34 so qualified for that fiscal year had it been owned by the
35 organization on the lien date and had the organization been in
36 existence on the lien date, shall be canceled or refunded.

37 (3) Property acquired after the beginning of any fiscal year by
38 an organization qualified for the college, cemetery, church,
39 religious, exhibition, veterans' organization, tribal housing, or
40 welfare exemption and the property is of a kind that would have

1 qualified for an exemption if it had been owned by the organization
2 on the lien date, whether or not that organization was in existence
3 on the lien date, shall be canceled or refunded in the proportion that
4 the number of days for which the property was so qualified during
5 the fiscal year bears to 365.

6 (b) Eighty-five percent of any tax or penalty or interest thereon
7 imposed upon property that would be entitled to relief under
8 subdivision (a) or Section 214.01, except that an appropriate
9 application for exemption was not filed within the time required
10 by the applicable provision, shall be canceled or refunded
11 provided that an appropriate application for exemption is filed
12 after the last day on which relief could be granted under
13 subdivision (a) or Section 214.01.

14 (c) Notwithstanding subdivision (b), any tax or penalty or
15 interest thereon exceeding two hundred fifty dollars (\$250) in total
16 amount shall be canceled or refunded provided it is imposed upon
17 property entitled to relief under subdivision (b) for which an
18 appropriate claim for exemption has been filed.

19 (d) With respect to property acquired after the beginning of the
20 fiscal year for which relief is sought, subdivisions (b) and (c) shall
21 apply only to that pro rata portion of any tax or penalty or interest
22 thereon that would have been canceled or refunded had the
23 property qualified for relief under paragraph (3) of subdivision (a).

24 ~~SEC. 3.—~~

25 *SEC. 4.* Section 441 of the Revenue and Taxation Code is
26 amended to read:

27 441. (a) Each person owning taxable personal property, other
28 than a manufactured home subject to Part 13 (commencing with
29 Section 5800), having an aggregate cost of one hundred thousand
30 dollars (\$100,000) or more for any assessment year shall file a
31 signed property statement with the assessor. Every person owning
32 personal property that does not require the filing of a property
33 statement or real property shall, upon request of the assessor, file
34 a signed property statement. Failure of the assessor to request or
35 secure the property statement does not render any assessment
36 invalid.

37 (b) The property statement shall be declared to be true under the
38 penalty of perjury and filed annually with the assessor between the
39 lien date and 5 p.m. on April 1. The penalty provided by Section
40 463 applies for property statements not filed by May 7. If May 7

falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(2) (A) This subdivision shall also apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided *either* by the purchaser or on behalf of the purchaser that was paid or provided *either*, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or *for* any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

1 (e) In the case of a corporate owner of property, the property
2 statement shall be signed either by an officer of the corporation or
3 an employee or agent who has been designated in writing by the
4 board of directors to sign the statements on behalf of the
5 corporation.

6 (f) In the case of property owned by a bank or other financial
7 institution and leased to an entity other than a bank or other
8 financial institution, the property statement shall be submitted by
9 the owner bank or other financial institution.

10 (g) The assessor may refuse to accept any property statement
11 he or she determines to be in error.

12 (h) If a taxpayer fails to provide information to the assessor
13 pursuant to subdivision (d) and introduces any requested materials
14 or information at any assessment appeals board hearing, the
15 assessor may request and shall be granted a continuance for a
16 reasonable period of time. The continuance shall extend the
17 two-year period specified in subdivision (c) of Section 1604 for a
18 period of time equal to the period of the continuance.

19 (i) Notwithstanding any other provision of law, every person
20 required to file a property statement pursuant to this section shall
21 be permitted to amend that property statement until May 31 of the
22 year in which the property statement is due, for errors and
23 omissions not the result of willful intent to erroneously report. The
24 penalty authorized by Section 463 does not apply to an amended
25 statement received prior to May 31, provided the original
26 statement is not subject to penalty pursuant to subdivision (b). The
27 amended property statement shall otherwise conform to the
28 requirements of a property statement as provided in this article.

29 (j) This subdivision shall apply to the oil, gas, and mineral
30 extraction industry only. Any information that is necessary to file
31 a true, correct, and complete statement shall be made available by
32 the assessor, upon request, to the taxpayer by mail or at the office
33 of the assessor by February 28. For each business day beyond
34 February 28 that the information is unavailable, the filing deadline
35 in subdivision (b) shall be extended in that county by one business
36 day, for those statements affected by the delay. In no case shall the
37 filing deadline be extended beyond June 1 or the first business day
38 thereafter.

39 (k) The assessor may accept the filing of a property statement
40 by the use of electronic media. In lieu of the signature required by

1 subdivision (a) and the declaration under penalty of perjury
2 required by subdivision (b), property statements filed using
3 electronic media shall be authenticated pursuant to methods
4 specified by the assessor and approved by the board. Electronic
5 media includes, but is not limited to, computer modem, magnetic
6 media, optical disk, and facsimile machine.

7 ~~SEC. 4.—~~

8 SEC. 5. Section 442 of the Revenue and Taxation Code is
9 amended to read:

10 442. (a) The property statement shall show all taxable
11 property owned, claimed, possessed, controlled, or managed by
12 the person filing it and required to be reported thereon.

13 Every person owning, claiming, possessing, controlling or
14 managing property shall furnish any required information or
15 records to the assessor for examination at any time.

16 (b) The requirements of this article shall be satisfied with
17 respect to property belonging to others for which the declarer has
18 contractual property tax obligations if the declarer includes that
19 property in the property statement, submits the statement timely,
20 and includes in the statement all information required in the
21 statement pertaining to property belonging to others.

22 (c) Property that is the subject of a contract designated as a lease
23 that provides that the lessee has the option of acquiring the
24 property at the end of the lease term for one dollar (\$1), or any
25 other nominal ~~consideration~~ *consideration*, shall be reported by
26 the lessor on the lessor's property statement. If that property
27 qualifies for the property tax exemption provided for by
28 subdivision (d) or (e) of Section 3 of Article XIII of the California
29 Constitution, that property shall be regarded as owned by the
30 lessee and is not required to be shown on any property statement
31 of the lessor.